



faegredrinker.com

Susan M. Sharko  
Partner  
susan.sharko@faegredrinker.com  
+1 973 549 7350 direct

Faegre Drinker Biddle & Reath LLP  
600 Campus Drive  
Florham Park, New Jersey 07932  
+1 973 549 7000 main  
+1 973 360 9831 fax

August 16, 2023

Honorable Michael A. Shipp, U.S.D.J.  
United States District Court  
Clarkson S. Fisher Building & US Courthouse  
402 East State Street  
Trenton, NJ 08608

Re: *Johnson & Johnson Talcum Powder Products, Marketing, Sales Practices and Products Liability Litigation*  
**Case No.: 3:16-md-02738-MAS-RLS**

Dear Judge Shipp:

On behalf of Defendants, I write in response to the PSC's letter of August 11, 2023 to clarify the status of these cases and to address the points raised in the PSC's letter ahead of the September 6, 2023 status conference.

### **1. Judge Kaplan's Dismissal of the Bankruptcy**

Contrary to the statements in the PSC letter, no court found that LTL (or J&J) had a bad faith intent in filing the bankruptcies. To the contrary, Judge Kaplan repeatedly found—and the Third Circuit did not dispute—that LTL/J&J pursued bankruptcy in a good faith attempt to obtain an equitable and efficient resolution in the best interests of all claimants. As Judge Kaplan also found in his first decision, and again the Third Circuit did not dispute, that subjective good faith alone would have allowed the case to proceed under the standards applied in other Circuits, including the Fourth Circuit where the matter was commenced. *In re LTL Mgmt., LLC*, 637 B.R. 396, 406 (Bankr. D.N.J. 2022), rev'd and remanded, 58 F.4th 738 (3d Cir. 2023), and rev'd and remanded, 64 F.4th 84 (3d Cir. 2023). Notwithstanding that subjective good faith and beneficial outcome for all claimants, Judge Kaplan was constrained to dismiss the bankruptcy due to the “immediate financial distress” standard of the Third Circuit. Judge Kaplan noted that the Third Circuit had not specified what was immediate financial distress, but he concluded that the Third Circuit required immediate harm but for the bankruptcy tantamount to a house in flames.

Put simply, the PSC's description of Judge Kaplan's August 11, 2023, Order dismissing the second *IN re LTL Management, LLC* bankruptcy and of the memorandum opinion he issued on July 28, 2023 (“Mem. Op.”) leaves out key details and thereby gives a wrong impression. Judge Kaplan expressly noted that his decision was *not* based on whether the bankruptcy “could, in fact, produce a just and right result.” Mem. Op. at 2-3. Rather, his decision to dismiss the bankruptcy was

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driven solely by his technical conclusion “that LTL is not sufficiently financially distressed to avail itself of bankruptcy at this time.” *Id.* at 3, 25. He noted that “neither this Court, nor the Third Circuit has taken issue with the propriety of the corporate restructuring.” *Id.* at 26 n.15. And he expressly recognized that bankruptcy offers key benefits over and against the tort system in resolving the instant litigation, including “the incontrovertible fact that many plaintiffs are denied any recovery in the tort system altogether” and the fact that he “remain[ed] unconvinced that the procedural mechanisms and notice programs offered in the tort system can protect future claimants’ rights in the same manner as the available tools in the bankruptcy system.” *Id.* at 26-29. He closed his discussion by observing that the *Imerys* bankruptcy proceedings might be “a platform to negotiate settlement.” *Id.* at 38 (quoting *In re LTL Mgmt., LLC*, 64 F.4th 84, 108 (3d Cir. 2023)). And he expressly rejected the talc claimants’ request to prohibit LTL from filing for bankruptcy a third time in the coming six months. August 11, 2023 Order at 5 (striking out language in proposed order that would enjoin further Chapter 11 bankruptcy petitions for a period of 180 days). In short, Judge Kaplan firmly believed that the bankruptcy system, and not the tort system, holds the proper tools by which to resolve these claims. He refused to close the door on a resolution through bankruptcy, whether through the *Imerys* proceedings or in a future bankruptcy proceeding filed LTL. He simply did not find, on the present record, that LTL is “sufficiently financially distressed” as defined by the Third Circuit to support bankruptcy at this time.

## **2. Multi-Plaintiff Trials, Bellwether Trials, and Remand**

Defendants welcome organized, fair trials. Which by definition means single plaintiff trials, as Chief Judge Wolfson ruled for the four bellwether cases to be tried in the MDL.

Notably, there have been 13 trials to date that yielded a jury verdict in cases involving claims of ovarian cancer from the talcum powder at issue in this litigation. Only one of those trials resulted in a plaintiff’s verdict that was left largely intact following post-verdict motions and appeals – and as discussed below, that was a multi-plaintiff trial. Seven trials resulted in a defense verdict. Five resulted in a plaintiff’s verdict that was reversed on appeal. One more resulted in a plaintiff’s verdict, but the trial court reversed the verdict.

The lone plaintiff’s verdict that survives came in *Ingham*, a 22-plaintiff consolidated trial in state court in St. Louis that made a mockery of Defendants’ Due Process rights. The plaintiffs in that case had different subtypes of ovarian cancer, different risk factors for ovarian cancer, different medical histories, different exposure to the products at issue (both in terms of amount and timing of use), and over a dozen different states of residence (requiring the Court, and the jury, to apply the laws of over a dozen different jurisdictions). As Professor Steven Penrod, Ph.D., Distinguished Professor of Psychology at the John Jay College of Criminal Justice of the City University of New York, noted in an affidavit submitted in support of severing the plaintiffs’ claims in *Ingham* (submitted herewith):

In my opinion, if the claims of multiple plaintiffs are presented to the same jury, the result will be unfairly prejudicial to defendants because there is a substantially greater likelihood that the jury will find defendants liable and will award greater

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damages to the plaintiffs. It is also my opinion that jury instructions will not mitigate this unfair prejudice.

Penrod Aff. at ¶ 4. He based that opinion “on scientific studies of jury decision making in which jurors are confronted with multiple charges or claims, as well as studies in which jurors are confronted with evidence that is intended for use in either a limited manner or that jurors are instructed not to consider at all.” *Id.* at ¶ 6; *see also id.* at ¶¶ 7-51 (discussing these studies at length).

This Court should not allow multi-plaintiff trials. With tens of thousands of cases awaiting trial, it is unreasonable to believe that trying cases with two, three, or even ten plaintiffs at a time would clear the backlog significantly faster than trying single-plaintiff cases. What it would do – and what the PSC is likely counting on it to do – is unfairly prejudice Defendants in the hope of replicating *Ingham*’s outlier outcome. The *Ingham* court’s unfortunate decision to trample Defendants’ rights by combining 22 trials into one has not moved these actions along more speedily; it has horrifically slowed settlement by misleading tens of thousands of plaintiffs into believing that they, too, might win the lottery. And regardless of the PSC’s intent, it is remarkable that the PSC was willing to request multi-plaintiff trials at all without informing the Court that Judge Wolfson was very clear that the coming bellwethers “are going to be single-plaintiff cases. So let’s put aside that idea [of multi-plaintiff trials].” Jan. 26, 2021 Status Conference Tr. at 13:18-21.

Remand is a far less fraught way of clearing the backlog, but it is premature to discuss remand at this point. As the PSC notes, the parties were in the process of preparing for bellwether trials when the cases were stayed by the bankruptcy filing in 2021. Defendants were preparing to disclose their expert witnesses, and Rule 702 briefing and dispositive motions were on the horizon. The Court’s rulings on those issues, even when not binding on future remand courts, would likely be informative to judges that do not share this Court’s experience in the issues.

That is particularly true where, as here, almost two years of additional science has further bolstered Defendants’ position relative to previous rounds of briefing. Science has not been stayed by the bankruptcy, and additional work has been done to investigate a possible link between talcum powder and ovarian cancer. Yet the American College of Obstetricians and Gynecologists, in their FAQ on ovarian cancer as last updated in May 2022 (available at <https://www.acog.org/womens-health/faqs/ovarian-cancer>), continues not to list talcum powder use among the risk factors for the disease. Likewise, the National Cancer Institute’s PDQ on ovarian cancer (last updated in June 2023, available at <https://www.cancer.gov/types/ovarian/hp/ovarian-prevention-pdq>) continues to state that “the data are inadequate to support an association between perineal talc exposure and an increased risk of ovarian cancer.” Plaintiffs’ experts now have an even more difficult task in explaining away the absence of supposedly compelling evidence of causation.

Moreover, any cases that proceed past the dispositive motion stage would yield trial packages, including rulings on motions in limine, that would further assist the parties and remand courts in

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streamlining future trials. The parties should proceed through the current round of bellwether trials before discussing remand.

Defendants agree that the backlog of cases is concerning. They have attempted to address that issue in multiple ways, including through the bankruptcy system (which, as Judge Kaplan observed, carries unique tools that are uniquely well-suited to the present situation). Progress is being made. But within the context of this MDL, the best and most expeditious way to move these cases forward is to proceed in an orderly, fair manner that gives the parties certainty as to how the cases will be tried and how they are likely to be valued.

### **3. Additional Discovery**

Plaintiffs in talc litigation overall have taken 92 depositions of company witnesses (including 16 different corporate representatives), spanning 151 days and 34,152 pages of testimony. Defendants have produced 517,699 documents totaling 2,404,538 pages in the talcum powder product liability litigation. The parties have commenced 48 trials to date across the ovarian cancer and mesothelioma litigations, of which 33 have proceeded to a jury verdict. Indeed, Beasley Allen – co-lead counsel for Plaintiffs in this MDL – were trial counsel for seven of those cases (including six that yielded a jury verdict). Given the immense amount of company discovery already taken and the demonstrated adequacy of that discovery to support trial packages, the Court should view the PSC’s requests for further discovery with skepticism.

In particular, Defendants are puzzled to see that the PSC intends to take depositions in this action relating to Defendants’ corporate restructuring of talc liabilities. The corporate restructuring has been heavily investigated and carefully scrutinized in not one, but two bankruptcy cases. Neither Judge Kaplan nor the Third Circuit has taken issue with the restructuring. But even if that were not the case, it is difficult to imagine how the corporate restructuring would be so important to plaintiffs’ liability or damages arguments (or even their claim for punitive damages) as to support further discovery given the history of this litigation. The point of such discovery would not be to support plaintiffs’ cases, but to harass Defendants. The Court should not permit it.

### **4. Additional Defendants**

Similarly, the PSC advises that it will seek leave to name additional defendants to the Master Complaint – including “Johnson & Johnson Consumer, Inc. (new); Johnson & Johnson Holdco (NA) Inc.; Kenvue Inc.; and Janssen Pharmaceuticals, Inc.” – “as a result of Defendants’ corporate restructuring.” This is at best misguided and at worst mere gamesmanship. Plaintiffs in the state court MCL in New Jersey have theorized that all four of these entities are liable in talc litigation because New JJCI (which changed its name to Johnson & Johnson Holdco (NA) Inc.) transferred assets to Janssen, which then transferred assets to Kenvue. But New JJCI/Holdco was created through a divisional merger in which, as the Third Circuit has explained, it inherited “none of [old JJCI’s] talc-related liabilities.” 64 F.4th at 97. It therefore had no talc-related liabilities to transfer to Janssen, and Janssen had no talc-related liabilities to transfer to Kenvue. In the event these

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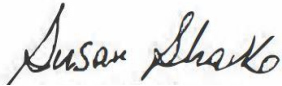
entities are added to the Master Complaint despite that any allegations against them would be frivolous, Defendants will move to dismiss them and will seek sanctions as appropriate.

### **5. Dispositive Motions**

Statute of limitations and other dispositive motions remain pending before the Court. Adjudication of these motions will help clear the docket in particular in light of the many cases filed since the bankruptcy involving very old diagnoses.

Thank you for your consideration of these matters.

Respectfully,

A handwritten signature in cursive script, reading "Susan Sharko".

Susan M. Sharko

SMS/emf

cc: Hon. Joel Schneider, U.S.M.J. (ret.) (via email)  
The Plaintiffs' Steering Committee (via email)  
All Counsel (via ECF)

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI**

**GAIL LUCILLE INGHAM, et al.,**

Plaintiffs,

v.

**JOHNSON & JOHNSON, et al.,**

Defendants.

Case No: 1522-CC10417-01

Division 10

**AFFIDAVIT OF STEVEN D. PENROD**

BEFORE ME, the undersigned authority, personally appeared the affiant named below, who being by me duly sworn, deposed as follows:

1. My name is Steven D. Penrod. I am over 18 years of age. I submit this Affidavit in support of Defendants' Memorandum of Law in Support of Motion to Sever Plaintiffs' Claims for Improper Joinder in the above-referenced matter. I am of sound mind, and if called as a witness, I could and would competently testify to the statements herein.
2. I am a Distinguished Professor of Psychology at the John Jay College of Criminal Justice of the City University of New York. I hold a J.D. degree from the Harvard Law School, and a Ph.D. degree in social psychology, also from Harvard University. I have testified as an expert on a variety of social science and law issues in over 150 cases in federal and state venues, including Wisconsin, Minnesota, Illinois, Ohio, Indiana, California, Texas, Oklahoma, New York, New Jersey, Maine, Connecticut, Massachusetts, New Hampshire, Maryland, the District of Columbia, Virginia, Delaware, and Pennsylvania. I am an author or co-author of approximately 150 publications. I have specialized in the study of the legal and psychological aspects of

decision-making by juries for more than 35 years, am conversant with the literature on consolidation of claims and parties and have published research on the specific topics discussed in this affidavit. My professional qualifications, including publications, grants, awards, and memberships are set forth more fully in my *curriculum vitae*, attached to this affidavit as Exhibit A.

3. I have been asked to render an opinion on: (1) the likely effect that consolidation of the claims of multiple plaintiffs against Johnson & Johnson, Johnson & Johnson Consumer Inc. and Imerys Talc America for trial will have on the jury; and (2) the efficacy of limiting instructions designed to overcome the prejudice stemming from such consolidation.
4. In my opinion, if the claims of multiple plaintiffs are presented to the same jury, the result will be unfairly prejudicial to defendants because there is a substantially greater likelihood that the jury will find defendants liable and will award greater damages to the plaintiffs. It is also my opinion that jury instructions will not mitigate this unfair prejudice.
5. In forming these opinions, I have reviewed the relevant psychological research literature summarized below and listed in Exhibit B hereto.
6. I base my opinions on scientific studies of jury decisionmaking in which jurors are confronted with multiple charges or claims, as well as studies in which jurors are confronted with evidence that is intended for use in either a limited manner or that jurors are instructed not to consider at all. In my opinion these studies clearly show that unfair prejudice results when jurors are exposed to information about other claims or charges against a defendant.

#### **STUDIES ADDRESSING THE EFFECTS OF CONSOLIDATION**

7. A number of researchers have studied the effect that consolidation of charges/claims against a defendant has on jury decision making. The studies in this area clearly and fairly uniformly

demonstrate that when evidence of consolidated claims is presented to a jury, the jury is substantially more likely to find against a defendant on a given claim than if it had not heard evidence of the other claims. Although some of this research has been conducted within the context of criminal cases, it is directly relevant to the issues raised in the present civil cases because the research underscores the difficulties jurors have in keeping trial evidence neatly compartmentalized. The research further demonstrates the ways in which inappropriate use of evidence can produce prejudicial effects. The research also underscores my opinions that jurors are likely to misuse evidence presented about multiple plaintiffs/claims, that the result will be prejudice against defendants, and that efforts to constrain the jury's use of the evidence in order to avoid consolidation prejudice are extremely unlikely to succeed.

8. Among the studies supporting the conclusions above are: Bordens & Horowitz (1983); Goodman-Delahunty, Cossins & Martschuk (2016); Greene & Loftus (1985); Horowitz & Bordens (1988); Horowitz & Bordens (1990); Horowitz & Bordens (2000); Horowitz, Bordens, & Feldman (1981); Leipold & Abbasi (2006); Tanford & Penrod (1982); Tanford & Penrod (1984); Tanford & Penrod (1986); Tanford, Penrod, & Collins (1985); Thomas (2010); White, (2006) and Wilford, Van Horn, Penrod & Greathouse (in press). Nearly all of these and other consolidation studies cited below have been published in peer-reviewed scientific journals. Most of my research and many other studies have been supported by grants from such as the National Science Foundation and the National Institute of Justice and these studies were subjected to peer review even before they were funded and conducted. Complete references to the studies cited in this affidavit are provided in Exhibit B hereto.
9. These studies reveal the difficulties jurors confront when trying to sort out evidence that is relevant to particular issues or parties and not relevant to other issues or parties. The research

shows that consolidated trials result in: (1) **inferences** by the jurors that a defendant has a bad character; (2) **cumulation** or spilling over of evidence against the defendant; (3) **confusion** of evidence; and (4) **changes in weight of evidence** (i.e. the tendency of jurors in such cases to give greater weight to plaintiff/prosecution evidence, relative to defense evidence). All of these factors have been shown to result in prejudice against defendants. A consolidated trial of these cases will therefore likely lead jurors to draw negative inferences against defendants and increase the likelihood of a pro-plaintiff verdict. It is also likely that jurors will cumulate “evidence” across claims, confuse the evidence presented by various plaintiffs and give greater weight to individual items of plaintiff evidence than would be the case if the claims were tried separately.

#### **ARCHIVAL VS EXPERIMENTAL STUDIES: COMPLEMENTARY STRENGTHS**

9. Research on consolidation effects has emerged from two types of studies (both of which have demonstrated prejudicial effects). First, researchers have conducted *archival studies* of actual cases, in which they compare outcomes from trials in which multiple cases, charges or defendants have been consolidated to cases that have not been consolidated. In addition, there are *experimental studies*, in which researchers compare outcomes in exemplar cases decided by mock jurors that are consolidated versus those that are tried separately. Australian researchers Goodman-Delahunty, Cossins, & Martschuk (2016), published the most recent study of consolidation effects and have explained the advantages and disadvantages of archival studies:

The advantage of such studies is that the observed relationships can be generalised across all jury trials with greater confidence than, for example, relationships between variables observed in a single trial or simulation. No two real trials will be exactly the same, so a finding that is robust across many trials is more likely to be broadly applicable to all relevant jury trials. One strength of archival studies is that they evaluate the verdicts of real-life juries, which have greater gravity due to their binding consequences. This is a feature that experimental trial simulations are less able to emulate. ... But these studies do not reveal the extent to which the observed increases in conviction rates in joint trials can be attributed to any of the three hypothesised sources

of unfair prejudice. The core of the problem is that a comparison of verdicts in joint trials versus separate trials ...cannot reveal a causal relationship between joinder (and verdicts). Real-life trials involve unique and highly complex variables. No archival study can exclude the possibility that differences in verdicts were influenced by numerous other confounding variables... Many potentially confounding variables cannot be controlled, manipulated or eliminated in archival studies. (pp. 52-52.) Footnotes omitted.

10. Goodman-Delahunty, Cossins & Martschuk, (2016) note that experimental studies offer different benefits. For example:

Crucially, causal conclusions can be more readily drawn from trial simulations because researchers control and construct the elements of a trial that they are interested in studying.... Inferences about the causal relationships between variables of interest – for example, the influence of joinder (on outcomes) ...can be determined with greater confidence than in archival studies because researchers are able to reduce the extraneous ‘noise’ present in real trials. Because the only differences across experimental conditions are manipulated by the researcher/s prior to observing the behaviour in interest, researchers can isolate whether these differences caused any observed differences in jury reasoning and case outcomes. Another advantage is that the identical research problem can be replicated multiple times in an experimental simulation, whereas archival studies will always be beset by the possibility that the trials differed based on some confounding variable.... Trial simulations also have the methodological advantage of facilitating direct observations of the process of jury decision making, as well as the outcome of the trial. (pp. 54-55.) Footnotes omitted.

**ARCHIVAL STUDIES DEMONSTRATE THAT CONSOLIDATION OF CLAIMS  
RESULTS IN PREJUDICE TO DEFENDANTS**

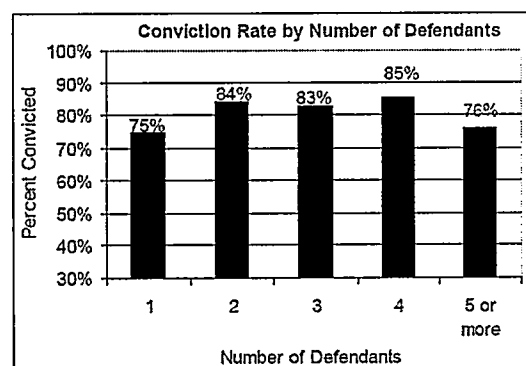
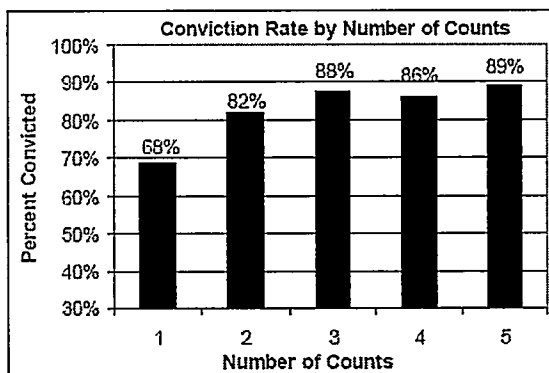
11. White (2006) examined outcomes in more than 4,600 asbestos cases, including bouquet trials (i.e. “a small group of ... claims... selected to be tried together from a larger group of ... consolidated claims” (p. 375)), and reported “that plaintiffs’ probability of winning at trial increases by 15 percentage points when they have small consolidated trials rather than individual trials, and ... plaintiffs’ probability of being awarded punitive damages increases by 6 percentage points. According to White, “the bouquet trial . . . is associated with a huge increase—85 percentage points—in plaintiffs’ probability of winning punitive damages and with an increase of \$1.5 million in punitive damage awards.” (pp. 385 & 390.). In short, consolidation of cases was

associated with a substantial increase in liability judgments against defendants, accompanied by substantial increases in damages.

12. White (2006) also tested whether trying cases together made it more likely that jurors would reach the same or similar liability and damage judgments with respect to those cases than if the cases were tried separately. According to White:

For the actual two-plaintiff consolidations, the correlation coefficients for whether plaintiffs win and for expected total damages are .74 and .92, respectively. The correlation coefficients for larger consolidated trials are similarly high. However, the correlation coefficients for the random pairs and larger random groups are all close to zero... These results support the hypothesis that consolidating cases for trial increases the degree of correlation of the outcomes and therefore makes going to trial more risky. In fact, they suggest that the increase in risk due to consolidation is extremely large. (pp. 382-384.)

13. Leipold & Abbasi's (2006) study of 19,057 criminal trials in the United States produced similar findings. They reported that defendants in consolidated trials with two charges were 14% more likely to be convicted of the most serious count against them than were defendants tried on a single charge. As shown in the following Figure, the conviction rate rose if a second charge was added and rose again if a third count was tried, but peaked at that point. An increased rate of convictions was also observed for the consolidation of defendants (second figure).

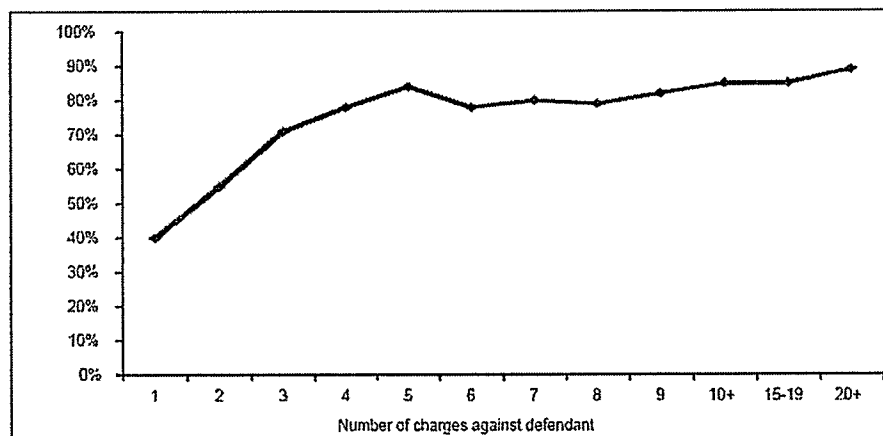


14. Based on the study, Leipold & Abbasi reached the following conclusions:

Now we can say not only that joinder “prejudices” the defendant, but that joinder unfairly causes prejudice. Unlike many other harms about which defendants complain, the effects of spillover evidence, inference of a criminal disposition, and jury confusion do not themselves further any policy goals, do not avoid risks of defendant manipulation, and do not even plausibly make trials more accurate or more fair – quite the contrary. So to say a defendant is not entitled to a separate trial just because his chances of acquittal are better is to say that a defendant should not be granted a severance merely to avoid a significant (~10%) risk that his conviction will be influenced by improper factors. (p. 390)

15. Leipold & Abbasi’s finding was replicated in Thomas (2010), which included an analysis of nearly 23,000 United Kingdom (UK) criminal trials. Thomas found that the probability of conviction rose significantly as the number of charges increased. As the following figure shows, jury conviction rates were 40% when a defendant was charged with one offense but rose steadily to 80% where there were five or more charges.

Figure 3.15: Jury conviction rate by number of charges (n=22,907)



### **EXPERIMENTAL STUDIES ALSO DEMONSTRATE THAT CONSOLIDATION CAUSES PREJUDICE TO DEFENDANTS**

16. There is a somewhat larger body of experimental research. These studies typically compare verdicts and judgments reached in an exemplar case when tried by itself versus when the case is consolidated with one or more additional cases. In contrast to archival studies, this method permits direct comparisons based on the same fact patterns and trial evidence. Experimental

studies also permit collection of juror opinions about the evidence and the parties at issue in the case (which allows researchers to gain insight into possible causes of consolidation bias). These studies also permit comparisons of large numbers of juror/jury decisions in both separate and consolidated trials.

17. The prejudicial effects of consolidation have been observed in a number of experimental studies involving civil cases. These studies demonstrate that consolidation increases the likelihood a jury will find a defendant liable and generally increases the amount of the damage award. For example, Horowitz & Bordens (1990) found that only 25% of juries asked to decide the causation issue in a toxic tort case involving a single plaintiff found for the plaintiffs, but 87.5% of juries asked to evaluate causation in cases involving 2, 3, or 4 plaintiffs found for the plaintiffs. Juries confronted with liability evidence in a single-plaintiff trial voted for the plaintiffs 62.5% of the time versus 87.5% of the juries who were asked to decide liability in consolidated trials.
18. In another civil trial study, Horowitz, ForsterLee & Brolly (1996) had jury-eligible adults watch videotapes of a complex toxic tort trial. The videos varied with respect to the amount of information communicated (“information load”) and complexity of the language used by the witnesses. Information load and complexity influenced both liability and compensatory decisions. As shown in the following table, jurors made compensatory awards commensurate with plaintiffs’ injuries only under conditions of low-load and less complex language.

*Compensatory Awards as a Function of Plaintiffs  
and Simple or Complex Language*

Plaintiff	Complex		Simple	
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
Lawson	4.63 <sub>b</sub>	2.70	5.43 <sub>a</sub>	2.79
Beaumont	4.92 <sub>a,b</sub>	2.67	4.89 <sub>a,b</sub>	2.95
Gallagher	4.93 <sub>a,b</sub>	2.68	4.30 <sub>b</sub>	2.91
Stephens	4.31 <sub>b</sub>	3.12	3.33 <sub>c</sub>	2.99

19. Horowitz, ForsterLee & Brolly (1996) also found that information load significantly affected the type of information that jurors recalled about the cases they decided. Jurors in the high information load condition actually reported fewer case-related facts
20. Horowitz & Bordens (2000) reported a study in which 135 jury-eligible adults were randomly assigned to one of five different aggregations of civil plaintiffs with 1, 2, 4, 6, or 10 claimants. Their jurors were shown a 5- to 6-hour trial involving claims by railroad workers of varied repetitive stress injuries. As with the other civil case studies, both liability and damage judgments were affected by consolidation. As shown in the Table below, the defendant railroad was more likely to be found liable as the number of plaintiffs involved in the case increased. In addition, the degree of fault assigned to the plaintiff(s) by the jury went down as the number of plaintiffs involved in the case increased, while defendant liability scores rose steadily. Damage awards rose through four plaintiffs.

*Means and Standard Deviations for the Damage Award, Liability, and Plaintiff Liability Measures*

No. of plaintiffs	Damage award		Liability		Plaintiff liability	
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
1	0.96 <sub>a</sub>	0.96	1.39 <sub>ab</sub>	0.57	0.60 <sub>a</sub>	0.27
2	1.21 <sub>a</sub>	1.20	1.41 <sub>a</sub>	0.50	0.51 <sub>a</sub>	0.25
4	3.54 <sub>b</sub>	2.14	1.19 <sub>bc</sub>	0.40	0.36 <sub>b</sub>	0.17
6	3.00 <sub>bc</sub>	1.64	1.09 <sub>c</sub>	0.27	0.34 <sub>b</sub>	0.11
10	2.32 <sub>c</sub>	1.12	1.00 <sub>c</sub>	0.00	0.27 <sub>b</sub>	0.12

*Note.* For liability scores, higher numbers denote lower defendant liability. For damage awards, higher numbers indicate higher awards. Plaintiff liability scores denote proportion of liability assigned to the plaintiff. Means with different subscripts in the same column differ significantly by a Tukey test. Damage awards of 1 resulted in compensation of \$10,000, awards of 2 resulted in compensation of \$10,001–50,000, and awards of 3 resulted in compensation of \$100,000–200,000.

21. Studies have also demonstrated that jurors’ knowledge of the size of the plaintiff population – without any presentation of the specific facts relevant to other plaintiffs’ claims – can affect their assessment of a case. A study by Horowitz & Bordens (1988) addressed how mentioning the size of the “plaintiff population” affected trial outcomes. Juries were randomly assigned to evaluate a toxic tort trial in which one of three conditions were present: (1) no information was given about the size of the plaintiff population; (2) jurors were told there were 26 plaintiffs in the plaintiff population; and (3) jurors were told that there were hundreds of plaintiffs in the plaintiff population. No other evidence was presented about the plaintiff population. The study found that jurors’ knowledge regarding the size of the plaintiff population affected their decisions about the fault attributable to the named plaintiff. Specifically, when jurors were told “there were 26 or hundreds of plaintiffs in the [plaintiff] population, less fault was assigned to [the named plaintiff] ( $M = .499$  and  $.412$ , respectively) than if no information was provided about [plaintiff] population size ( $M = .612$ ).” (p. 219.) In addition, when the plaintiff population included hundreds of plaintiffs, punitive damages were, as shown below, dramatically higher with respect to all the named plaintiffs.

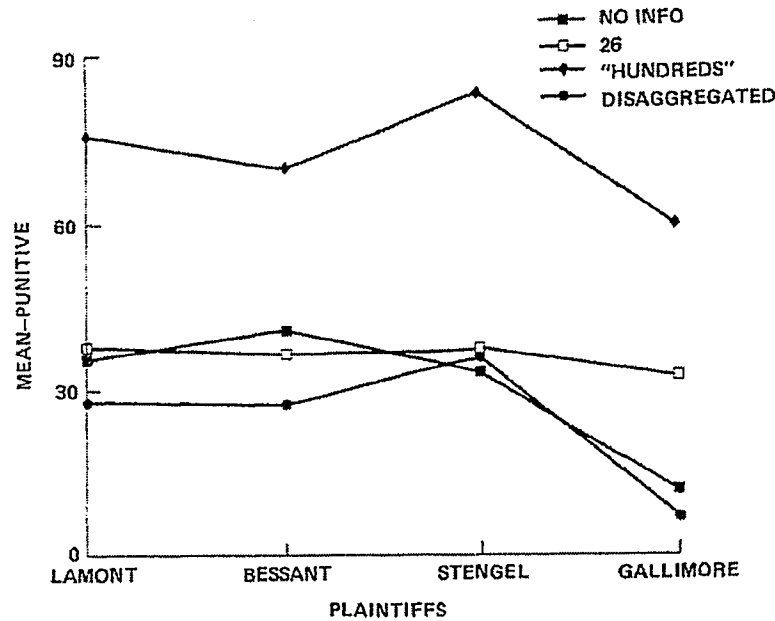


Fig. 1. Punitive damage awards in the no outlier condition.

22. One of the more exhaustive experimental consolidation studies is one that I conducted with my student Sarah Tanford in 1984 as part of a series of studies supported by the National Science Foundation in the 1980s (Tanford & Penrod (1984).) Tanford & Penrod (1984) studied the decision-making of 732 jury-qualified residents who participated in a realistic mock jury study. The jurors included 714 adults who had been summoned for jury service in Dane County, Wisconsin, 69% of whom had served on one or more juries. The eighteen remaining participants were jury-qualified students at the University of Wisconsin. Participating jurors viewed one of several different versions of a re-enacted trial lasting between 50 and 120 minutes. The trial was based upon actual trial transcripts and involved a criminal defendant charged with either one or three offenses. Jurors heard evidence from an average of three witnesses. The offenses included burglaries, assaults, and robberies. In addition to manipulating the number of charges against the defendant, this study also manipulated the similarity of the charges and evidence considered by jurors. Thus some jurors viewed a trial in which the defendant was charged with a single burglary, some jurors viewed a trial with three different burglaries, and other jurors viewed a trial

with a burglary, an assault, and a robbery charge. In some trials, the evidence against the defendant was similar for all charges (e.g., all based upon circumstantial evidence) and in others the evidence was different for different charges (e.g., circumstantial, eyewitness, and fingerprint). After watching their trial, jurors privately indicated their personal verdicts and then began deliberating in groups of six. Deliberations were videotaped with a video camera placed in the corner of the deliberation room so that deliberations could be analyzed later. The evidence presented to the jurors in the Tanford & Penrod (1984) study was not complex and the trials were very brief, regardless of how many charges were at issue

23. The individual juror verdicts in the Tanford & Penrod (1984) study were strongly affected by consolidation. When jurors decided a burglary case consolidated with evidence on two other charges, they were 62% more likely to convict than when they considered the same burglary evidence by itself. The study confirms that, when evidence of multiple claims/charges against a defendant is considered by a single jury in a single trial, the probability of a finding adverse to the defendant is significantly higher than when a single charge is at issue. In the Tanford & Penrod (1984) study, there were also more convictions when evidence presented on the various charges was dissimilar (43%) than when evidence on the charges was similar (35%).
24. The results of the Tanford & Penrod (1984) study are typical of the findings from other experimental studies, and parallel those of the archival studies, outlined above.
25. The relevant experimental studies, like archival studies, clearly show that the magnitude of the effect that consolidation has on verdicts increases as more claims/charges are consolidated. For example, Tanford & Penrod (1982) found that conviction rates on a rape charge increased from 5% when tried alone (or with one other charge) to 27% when consolidated with two other charges (a 540% increase), and to 39% when consolidated with three other charges (a 780%

increase). A similar pattern was observed for a trespass charge. In all these studies, the evidence on a given charge was always identical whether jurors evaluated the charge separately or consolidated with other charges.

26. The latest study of the effects of joining criminal allegations against a defendant is an Australian study by Goodman-Delahunty, Cossins & Martschuk (2016), who compared separate and joint trials with various forms of evidence in the context of a child sexual abuse scenario. The study involved 90 mock juries and more than 1,000 jury-eligible citizens. The researchers found that consolidated trials (as opposed to separate trials for the same offense) produced higher rates of errors in recall of trial evidence, stronger inferences about the defendant's sexual interest in boys, greater perceived intent, greater perceived poise and credibility for the complainant, greater defendant culpability, and, not surprisingly, greater defendant guilt (from about 80% not guilty to over 95% guilty).

**CONSOLIDATION OF CLAIMS LEADS JURORS TO DRAW NEGATIVE  
CHARACTER INFERENCES ABOUT DEFENDANTS**

27. Tanford & Penrod (1984) studied with particular care the reasons why the consolidation of multiple allegations against a defendant increases the probability of an adverse finding against the defendant. The strongest reason for the prejudicial effect of consolidation is that jurors in trials involving evidence of multiple allegations are substantially more likely to draw the inference that the defendant is "like a criminal" or has "criminal propensities." More broadly, Tanford & Penrod (1984) demonstrated that, when presented with evidence of multiple offenses, jurors find the defendant less sincere, less believable, less honest, more immoral, more likely to commit a future crime, less likeable, and more like a "typical criminal." This is the same pattern

demonstrated in the new study by Goodman-Delahunty, Cossins & Martschuk, (2016), discussed above, and similarly applies in civil cases.

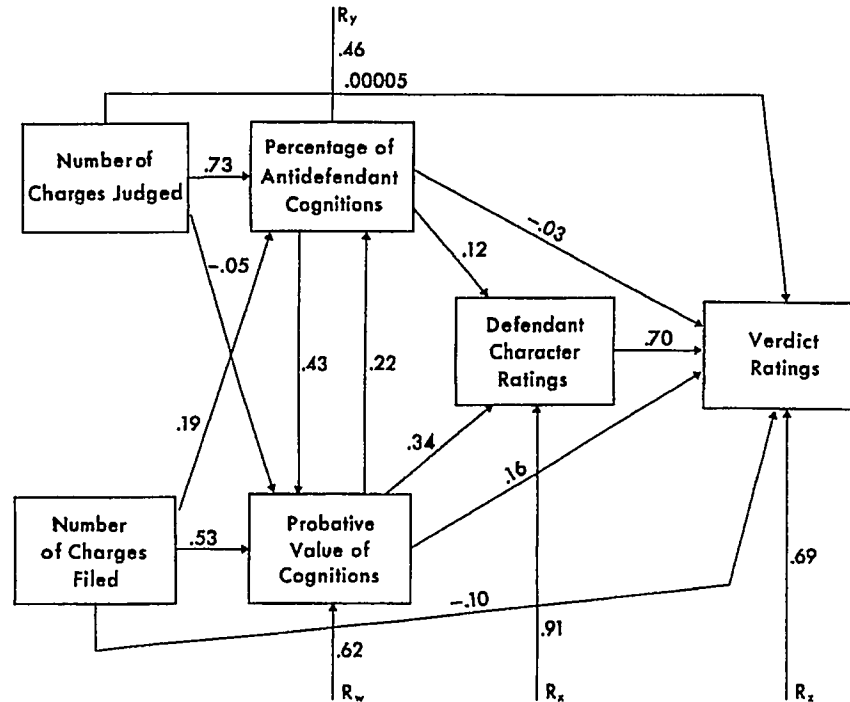
28. Negative impressions of defendants directly influence verdicts. This is because negative inferences about a defendant's character appear to lower the standard of proof to which jurors hold the prosecution/plaintiff evidence. (See the discussion of Bordens & Horowitz (1986), below.) Jurors are also more willing to find against defendants who they view negatively because the consequences of an erroneous decision seem less severe when the defendant is disliked. (Bordens & Horowitz (1986).)
29. In my opinion, consolidation of multiple plaintiffs' claims for trial in the present case is likely to result in the jury drawing similar negative inferences against the defendants and thereby make it more likely that the jury will find defendants liable and increase the amount of damages awarded.

**CONSOLIDATION OF CLAIMS AFFECTS JURORS' CONSIDERATION OF THE  
EVIDENCE**

30. Negative impressions of a defendant against whom claims are consolidated also strongly influence jurors' assessments of trial evidence, and these assessments in turn influence verdicts. Tanford & Penrod (1984) found that consolidated charges produced stronger negative inferences about the defendant's criminal character than severed charges, and that those inferences influenced verdicts directly through distorted perceptions of the trial evidence. When a defendant seems more like a criminal (an impression strongly fostered by evidence of multiple offenses arising from separate incidents), this makes it appear to jurors that evidence offered by the prosecution with respect to a particular charge is more compelling and the defendant's evidence less compelling, even though there is no logical basis for concluding that the evidence is stronger. In short, an inference of criminality produced in consolidated trials makes identical

items of prosecution evidence look stronger (more probative of guilt) than the identical items of prosecution evidence in severed trials.

31. The same pattern of “criminal inferences” and changes in the weight of evidence has also been observed by Tanford, Penrod, & Collins (1985), and similar patterns of negative inferences about defendants were reported by Greene & Loftus (1985). The pattern of changes in rationales for verdicts reported by Goodman-Delahunty, Cossins & Martschuk (2016), described above are consistent with this cumulation effect. This research shows that jurors effectively cumulate evidence of multiple offenses. This makes jurors more likely to convict on any given charge in a consolidated trial than if they considered only the evidence of that particular charge. Furthermore, the more charges that are consolidated, the greater the likelihood and strength of a criminal inference, the greater the apparent changes in the weight of evidence, and the greater the likelihood of conviction, even though the evidence on any particular charge remains unchanged.
32. Bordens & Horowitz (1986) tested, in some detail, the effect of consolidation on jurors’ assessments of the defendants’ character and levels of “anti-defendant” sentiment. Their model (below) shows that simple knowledge of the number of charges against a defendant increased anti-defendant feelings and negative perceptions of the defendant’s character.



33. In my opinion, it is extremely probable that consolidation of the plaintiffs' cases in this litigation will similarly affect juror perceptions of the defendants' character and evaluation of the evidence. Because each plaintiff will offer allegations and evidence that defendants engaged in similar alleged wrongdoing, the jury will be more likely to draw negative inferences about the defendants' character and have distorted perceptions of the probative value of the plaintiffs' evidence.

### **CONSOLIDATION OF CLAIMS RESULTS IN JUROR CONFUSION**

34. Consolidation of claims also results in confusion about the evidence. Tanford & Penrod (1984), Bordens & Horowitz (1983) and Tanford, Penrod & Collins (1985) all documented consolidation-induced confusion of evidence, and this confusion is compounded where the consolidated charges are similar, as are the claims in the various cases consolidated for trial in the instant litigation. Studies have shown that confusion is related to prejudicial

judgments about the defendant (e.g., Bordens & Horowitz (1983)) and that jurors confused by multiple claims are more likely to find against the defendant.

35. In Horowitz & Bordens (2000), researchers noted that “when judging four plaintiffs (as compared with a single plaintiff drawn from the four), jurors not only tend to lump or blend . . . plaintiffs but also appear to use fewer probative trial facts, as compared with when either fewer plaintiffs or fewer witnesses presented testimony.” (Horowitz et al., 1996.) As Horowitz & Bordens (2000) explained, “[e]xperimental research on decision making in nonlegal contexts suggests that when the number of options reaches four, the ability of individuals to consider each alternative on its merits is compromised” because there “appears to be a limitation on the number of hypotheses or alternatives that people can maintain and operate on at one time.” (*Id.*) In their study Horowitz & Bordens (2000) reported that jurors found it easier to understand evidence and easier to understand the expert testimony in 1- and 2-plaintiff trials, as compared with the 4-, 6-, and 10-plaintiff trials. According to the study, “[w]ith respect to the impact of consolidation, the fate of the three ‘focus’ plaintiffs differed substantially when they were part of different configurations of plaintiffs. Clearly, jurors were not judging the evidence pertaining to these plaintiffs on merits alone.” (p. 917.)
36. Based on my review of the materials I have been given regarding the instant litigation, it is my understanding that the Court has consolidated the product-liability claims of six plaintiffs (with varying pre-existing conditions and general health status) and several of their spouses, which arise from different surgeries performed by different doctors over different time periods. Such a consolidated trial of the plaintiffs’ claims is likely to be fairly long, with many witnesses and a fairly large number of documents presented to the jury. The published literature supports a

conclusion that such a consolidated trial will result in significant juror confusion regarding the evidence, which makes it more likely that the jury will find against defendants.

**LIMITING INSTRUCTIONS DO NOT MITIGATE THE PREJUDICE THAT RESULTS  
FROM THE CONSOLIDATION OF CLAIMS**

37. Efforts to mitigate the prejudicial effects of consolidation by giving the jurors limiting instructions are exceedingly unlikely to offset the prejudice of joining many claims together in a single trial, and there is a serious risk that such instructions will aggravate the prejudice to defendants. There are several reasons for this. First, a substantial body of research shows poor juror comprehension of legal instructions. This research includes studies by Penrod & Tanford and Greene & Loftus, as well as that of Charrow & Charrow (1979), Cutler, Penrod & Schmolesky (1988) and Elwork, Sales, & Alfini (1982). Researchers have evaluated juror comprehension of standard instructions from Arizona (Sigwirth & Henze (1973)); California (Charrow & Charrow (1979); Haney & Lynch (1994)); Florida (Buchanan, Pryor, Taylor & Strawn (1978); Elwork, Sales & Alfini (1982)); Illinois (Smith (1993)); Michigan (Elwork, Sales & Alfini (1977)); Nevada (Elwork, Sales, & Alfini (1982)); Wisconsin (Heuer & Penrod (1988); Heuer & Penrod (1989); Heuer & Penrod (1994a); Heuer & Penrod (1994b)); and Washington (Severance & Loftus (1982)).

38. Severance and Loftus (1982) reported that jurors find limiting instructions one of the most difficult instructions to comprehend. One portion of the research on limiting instructions has focused on instructions intended to limit the impact of information about a defendants' bad acts. This research has been conducted in both criminal and civil settings. Although providing jurors with limiting instructions appears to slightly improve actual jurors' understanding of the appropriate use of evidence of prior convictions (Kramer & Koenig (1990)), their overall

comprehension is still low. Approximately half of the participants in that study did not adequately comprehend limiting instructions. Because limiting instructions are intended to protect litigants against biasing information, lack of comprehension severely threatens the fairness of the trial.

39. Civil jury studies illustrate the problem with limiting instructions. Broeder (1959) found that mock juries awarded higher damages to a plaintiff after being instructed to disregard a statement that the defendant had insurance as opposed to when they were given no instructions. When jurors were told the defendant had no insurance, the average damage award was \$33,000. When jurors were informed that the defendant had insurance, damages rose to \$37,000. And, when jurors were instructed to disregard the insurance information, the award rose to \$46,000. *See also* Cox & Tanford (1989) (Experiment 2) (jury eligible adults shown a videotape reenactment of a civil negligence trial recommended larger awards when given judicial admonitions to ignore certain evidence). Cox & Tanford (1989) (Experiment 2) characterized this as a “backfire effect.” (*Id.*) Pickel (1995) similarly found that detailed legal explanations of limiting instructions did not help mock jurors ignore inadmissible prior conviction evidence and resulted in a backfire effect.

40. In a variant on limiting instructions research, Casper et al. (1989) showed participants (253 adults called for jury duty and 283 undergraduate students) a videotape of a hypothetical illegal search and seizure civil suit brought against two police officers. The videotape had three possible outcomes: police found evidence of illegal conduct (guilty outcome) or police found nothing and later arrested a different person (innocent outcome) or no outcome was provided (neutral outcome). Jurors were then presented with instructions that included an admonition to disregard outcome information when assessing damages. Participants who watched the

videotape indicating that the search resulted in the discovery of illegal conduct were significantly less likely to award damages to the subject of the search. In other words, jurors did not follow the judge's instructions not to consider outcome evidence.

41. Doob & Kirshenbaum (1973) found that participants were significantly more likely to find a defendant in a hypothetical burglary case guilty when presented with information indicating that the defendant had a prior criminal record than when no prior record information was given. Judicial instructions to use the information to determine credibility, rather than as an indicator of guilt, did not significantly reduce ratings of guilt.
42. Similarly, Hans & Doob (1976), whose participants were given a written summary of a hypothetical burglary case, found that groups who received evidence of prior conviction, accompanied by limiting instructions, were more likely to convict (40%) than groups who did not receive prior conviction evidence (0%). Furthermore, the content of jury deliberations was affected by the presence of inadmissible evidence. Groups exposed to prior conviction evidence made significantly more negative statements about the defendant and significantly more positive statements about the prosecution evidence. The authors concluded that jurors do not use evidence regarding convictions to determine the credibility of statements made by the defendant. Instead, they are used as an indicator of guilt, despite judicial instructions not to use the information in this manner.
43. Wissler & Saks (1985) reported similar results in a study using adults recruited from the Boston area. Some of these participants were told that the defendant had previously been convicted of either a similar crime, a dissimilar crime, or were given no information about a prior conviction. Participants who received information about a defendant's prior record were instructed to use it only to determine the credibility of the defendant's statements and as an indication that the

defendant has a criminal disposition. The type of prior conviction did not influence the defendant's credibility. Jurors who read about a defendant convicted of perjury did not view the defendant as less credible than jurors who read about any other defendant, including a defendant with no prior convictions. However, participants returned significantly more guilty verdicts for defendants with similar convictions (75%) than for defendants with dissimilar convictions (52.5%), perjury convictions (60%), or no convictions (42.5%).

44. Steblay, et al. (2006) provide the most exhaustive overview of the effects of limiting instructions.

Their study is a meta-analysis of the effect of judicial instructions to disregard inadmissible evidence (IE) on juror verdicts. Their data include 175 hypothesis tests from 48 studies with a combined sample of 8,474 participants. The results revealed that inadmissible evidence has a reliable effect on verdicts consistent with the content of that evidence (inadmissible evidence could and did operate against both sides, depending on the study). Judicial instructions to ignore the inadmissible evidence did not effectively eliminate the negative impact of the evidence. Steblay noted two civil studies in which this pattern was observed: "Schaffer (1984) provided defense-slanted IE (of pretrial negotiation) in a product liability case and found support,  $r = -.24$ , for the hypothesis that judicial instruction does not eliminate the impact of IE on jurors' decisions. Also using a product liability case, Landsman & Rakos (1994) found a similar impact with pro-plaintiff IE (damaging information regarding a recall of the product) despite judicial instruction to disregard that evidence,  $r = .33$ ." (p. 476.)

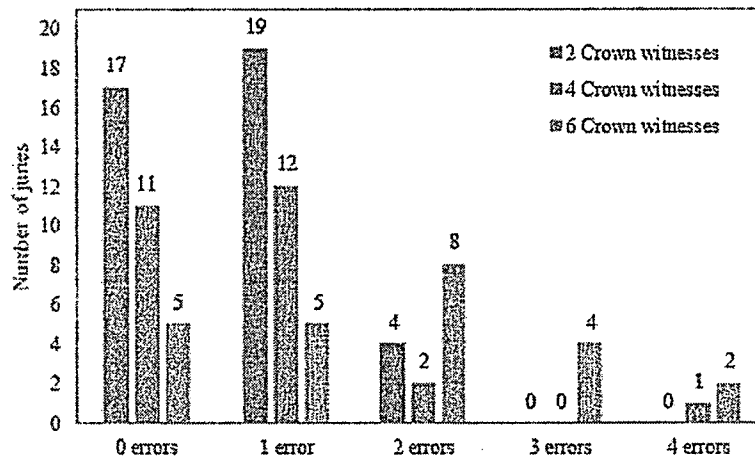
45. The results of both the civil and criminal studies all support the conclusion that jurors have difficulty comprehending and applying legal instructions not to consider certain evidence.

**CONSOLIDATION INSTRUCTIONS, IN PARTICULAR, DO NOT MITIGATE THE  
PREJUDICE THAT RESULTS FROM CONSOLIDATION**

46. Studies have shown that judicial instructions are not effective in mitigating the prejudicial effect of consolidating multiple claims/charges. In Tanford & Penrod (1984) and Tanford, Penrod, & Collins (1985), half of study participants asked to evaluate a judicial case involving multiple charges were given a set of very strong instructions not to infer that the existence of multiple charges was evidence of guilt and that the evidence pertaining to each charge should be considered separately. The instructions were patterned after those actually employed in the federal courts, but were stronger and more extensive.
47. Tanford & Penrod (1984) found these instructions to be totally ineffective in eliminating or even reducing the effects of consolidation. The conviction rate for jurors in consolidated trials who did not receive these instructions was 39% as compared with 38% for jurors who did. According to this study, instructions were also ineffective in influencing other measures of juror judgments. Other studies that have produced similarly discouraging results about the impact of consolidation instructions include Greene & Loftus (1985) and Horowitz & Bordens (1985). The results from the large-scale Australian study by Goodman-Delahunty, Cossins & Martschuk (2016) confirm these conclusions and are “in line with a large body of empirical studies demonstrating the ineffectiveness” of jury instructions to mitigate the prejudicial effects of consolidation.
48. On the basis of this research, it is my opinion that it is extremely unlikely that a judicial instruction could effectively eliminate prejudicial inferences against defendants that will result from joining the claims of multiple plaintiffs for trial.

**DELIBERATION DOES NOT MITIGATE THE PREJUDICE THAT STEMS  
FROM CONSOLIDATION**

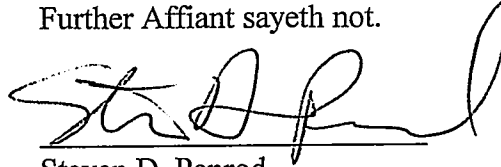
49. The prejudice that would be caused by consolidation will not be cured by the process of jury deliberations. Tanford & Penrod (1986) showed that jury deliberations do not offset biases created by consolidation. In that study, jurors in consolidated trials, questioned before deliberation, recommended conviction at a higher rate than jurors in single trials. After deliberation, the difference was even greater. In short, deliberation aggravated consolidation-related biases.
50. Goodman-Delahunty, Cossins & Martschuk (2016) looked at the distribution of factual recall errors during deliberation and asked whether they were associated with varying numbers of trial witnesses. They found that simpler, non-consolidated, cases were associated with fewer errors as shown in the following figure.



*Figure 9.* Number of factual recall errors in deliberation, by total number of prosecution witnesses

51. Based upon the foregoing, I conclude that it would be highly prejudicial to defendants if multiple claims against them were consolidated for trial. I anticipate that consolidation would cause jurors to draw negative inferences about the defendants, enhance the apparent probative value of evidence against the defendants, prompt confusion and accumulation of evidence against the defendants and prejudicially increase the risk of liability findings, damages and punitive damages awards against the defendants. I further conclude that limiting instructions and deliberation by jurors are extremely unlikely to overcome these multiple sources of prejudice. By far the most effective method of avoiding the problems detailed above is to try each claim separately before separate juries.

Further Affiant sayeth not.



Steven D. Penrod

SUBSCRIBED AND SWORN TO before me on this 18<sup>th</sup> day of April, 2018.



Notary Public In and For  
The State of New York

**EDWARD CANORA**  
Notary Public - State of New York  
No. 01CA6227828  
Qualified in Westchester County  
My Commission Expires September 7, 2018

My Commission Expires: 9/07/18

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# EXHIBIT A

**CURRICULUM VITAE**  
**STEVEN PENROD**

April 18, 2018

524 West 59<sup>th</sup> Street 10.65.3  
John Jay College of Criminal Justice  
New York, NY 10019-1199

Useful links: google "Steven Penrod"  
email:spenrod@jjay.cuny.edu  
646-783-8373

**EDUCATION**

PhD Harvard University, 1979, Social Psychology. Dissertation:  
Evaluation of social scientific and traditional attorney  
methods of jury selection. Committee: Reid Hastie, Thomas  
Pettigrew, Charles Judd, and Charles Nesson  
J.D. Harvard Law School, 1974. Third Year Paper: Intention and  
causation: A psychological critique. Advisor: Charles Fried  
B.A. Yale College, 1969, Poli. Sci. Thesis Advisor: Robert Dahl

**HONORS AND AWARDS**

2015—European Assoc for Psychology and Law Award for  
Distinguished Career Contributions  
2005—APA Fowler Award for Outstanding Contribution to the  
Professional Development of Graduate Students  
2001—Distinguished Professorship, John Jay College, CUNY  
1999—Award for Distinguished Contributions to Psychology and  
the Law—American Psychology-Law Society  
1999-2000—Gallup Professorship—University of Nebraska  
1994-1995—Davis Professorship in Law, Univ of Minnesota  
1986—American Psychological Association Distinguished  
Scientific Award for an Early Career Contribution to Applied  
Psychology (Citation: *American Psychologist*, 42, 300-303).  
1981—Second Prize American Psychological Association Division  
13 Meltzer Research Award  
1980—Cattell Dissertation Award, NY Academy of Sciences.  
1980—Soc. for Experimental Social Psych Dissertation Award.  
1980—Co-winner of Society for the Psychological Study of Social  
Issues Dissertation Award  
Harvard University: National Science Foundation Dissertation  
Research Grant: Law and Social Sciences  
Harvard Law School: Taft Scholarship.  
Yale College: Political Science Honor Society; NSF Summer  
Research Grant; Griffin Scholarship, Alcoa Scholarship.

**PROFESSIONAL EXPERIENCE**

2001- Distinguished Professor of Psychology, John Jay--CUNY  
1999-2000 Gallup Professorship—University of Nebraska  
1995-2001 Dir of Law and Psychology Program-Univ of NE  
1995-2001 Prof of Psychology & Prof of Law-Univ of Nebraska  
1994-1995 Adjunct Prof: Humphrey Institute of Public Affairs-MN  
1993-1995 Dir of Grad Studies in Conflict Management-U of MN  
1992-1993 Grievance Officer, University of Minnesota  
1991-1995 Director, Conflict and Change Center, Univ of Minn  
1990-1995 Adjunct Professor of Psychology, Univ of Minnesota  
1989-1996 Professor of Law, University of Minnesota  
1988-1989 Visiting Prof, Law & Psychology, Univ of Minnesota  
1988-Professor of Psychology, University of Wisconsin  
1986 Research Consultant, Judicial Council of California  
1985-1988 Associate Prof of Psychology, Univ of Wisconsin  
1985 Visiting Professor of Law, Indiana University  
1983 Visiting Professor of Law, University of Wisconsin  
1979-1985 Asst Professor of Psychology, Univ of Wisconsin  
1975-1979 Research/Teaching Asst--Psychology, Harvard Univ  
1975 (summer) Staff-Hartford Inst for Criminal & Social Justice  
1974 (summer) Asst Ombudsman for Connecticut Corrections  
1971-1973 Naval Judge Advocate General Corps  
1970 (summer) Research Assistant, Sociology Dept, Harvard Univ

**PUBLICATIONS**

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the Henderson Instruction Safeguard against Unreliable  
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- RESEARCH AND PROGRAM GRANTS**
- National Science Foundation. Disclosure in Plea Bargaining (\$227,000, under review 08/17).
- National Science Foundation. The Accuracy of High-Confidence Witness Judgments: The Impact of Lineup Bias, Memory Quality and Willingness to Choose (\$114,000, under review 08/17).
- National Science Foundation. Building Tools for Assessing the State of Eyewitness Science (\$237,000, under review 08/17).
- National Science Foundation. Trial Shadows: The Effects of Jury Instructions on Plea Bargaining (\$125,000, under review 08/17).
- National Science Foundation. A test of deservingness versus group values for a theory of procedural justice (\$38,000, under review 08/17). With Larry Heuer.
- National Science Foundation. The responsibility of judges to assure due process: Tension among neutrality, rights protection, and role (\$193,796, 07/15-06/17). With Larry Heuer.
- National Science Foundation. Issue-Specific Jury Instructions. (\$194,262, 09/12-08/15).
- National Science Foundation. Factors influencing plea bargaining decisions by prosecutors and defense attorneys. (\$93,200, 09/09-08/11).
- National Science Foundation. Understanding the Impact on Juries Of Defense Responses To Victim Impact Statements. (\$245,813—8/08-6/11).
- National Science Foundation, Field and Lab Studies of the Effects of Pretrial Publicity on Jurors' Trial Judgments. (\$275,000, 8/1/06-7/31/09).
- National Science Foundation, Eyewitness Guessing and Accuracy: Subjective Experience and Objective Determinants (\$212,836, 9/1/2004-8/31/07) With Lisette Garcia.
- National Science Foundation, Reducing Eyewitness Identification Errors: Procedural Strategies, (\$298,398, 7/15/03-1/15/06).
- National Science Foundation, Risk Management and Juries: How Jurors React to Cost-Benefit Analyses. (\$260,000, 2/02-2/05). With Kevin O'Neil.
- National Science Foundation, Meta-Analysis of Facial Identification Research: A Reappraisal (\$140,669, 5/01-4/03). With Brian Bornstein.
- National Science Foundation, A Continuing Empirical Analysis of the Admissibility of Expert Testimony: Investigating the Effects of *Kumho Tire v. Carmichael*. (\$102,307, 01/15/00 - 09/15/02).
- CUNY Research Foundation, Sequential vs. Serial Lineup Identification Procedures. (\$4800, 03/01/2002-06/30/2003)
- National Science Foundation, How Expert Are Factfinders? Evaluating the Reliability of Interviews in Child Sexual Abuse Cases (\$77,309, 09/01/99 - 05/31/01). With Nancy Walker.
- National Institute of Mental Health, Training Grant in Mental Health Policy and Research (\$620,000, 7/1/99-6/30/01).
- National Science Foundation, The Death Equation: Decisionmaking in Death Penalty Cases (\$172,021, Aug 1998-Feb 2001).
- National Science Foundation, A Scientific Examination of the Admissibility of Scientific Expert Testimony Under *Daubert v. Merrell Dow Pharmaceuticals*. (\$78,000, Sept 1997-March 1999).
- Hewlett Foundation, *Center for Conflict and Change*, (\$125,000, July 1994-June 1996).
- National Science Foundation, *Meta-Analysis of Jury Decisionmaking Studies*, (\$65,456, August 1993-March 1996).
- Hewlett Foundation, *Center for Conflict and Change*, (\$200,000, November 1991-October 1993).
- National Science Foundation (with Eugene Borgida), *Cameras in the Courtroom: A Field Experiment* (\$150,000, July 1990-June 1992).

State Justice Institute (with American Judicature Society and Larry Heuer), *Assessing the Impact of Juror Notetaking and Question-asking on Juror Performance: A National Experiment* (\$111,201, November 1988-May 1990).

National Science Foundation (with Daniel Linz), *Pretrial Mass Media Exposure and Jury Decisionmaking* (\$135,000, July 1988-March 1991).

National Institute of Mental Health (with Daniel Linz and Edward Donnerstein), *Sexual Violence in the Media: Mental Health Implications* (\$350,824, July 1986-July 1989).

National Science Foundation, *Assessing and Calibrating Juror Sensitivity to Eyewitness Evidence* (\$131,290, Sept 1984-Feb 1988).

National Institute of Justice, *Improving Eyewitness Performance* (\$119,767, March 1984-September 1986).

National Science Foundation (with Edward Donnerstein), *Effects of Long-term Exposure to Sexually Violent Images*. (\$202,503, June 1983-May 1986).

National Institute of Justice, *Guidelines for Joinder in Criminal Cases* (\$117,000, September 1981-January 1984).

National Institute of Health, *Social Cognition and Patient-Physician Communication* (\$98,003, January 1981-July 1983).

National Science Foundation (Joint Funding from Law & Social Sciences & Social and Developmental) *Empirically Based Models of Juror and Jury Decision Making*. (\$76,549, January 1981-December 1983).

National Institute of Justice, 1981-1982, (with Dan Coates). *The Implications of Social Science Research for Criminal Trial Advocacy* (\$203,045, January 1981-July 1983).

National Institute of Justice, *Validation of a Measure of Assaultive Risk*. Principal Investigator/Advisor on Dissertation Research by Marlowe Embree. (\$10,500, 1981-1982).

National Science Foundation, *Evidence in Civil Commitment Cases*. Faculty Advisor on Student Originated Study with Terri Finesmith. (\$5,828, Summer 1981).

University of Nebraska Visiting Scholar Grant (John Michon). 1996. \$795.

University of Minnesota Graduate School, 1991-1992, *External Validity of Jury Research*, (\$9,056).

University of Minnesota Graduate School, 1990-1991, *Juror Decisions in Joined Trials*, (\$10,000).

University of Minnesota Graduate School, 1989-1990, *Legal Decisionmaking*, (\$10,000).

University of Wisconsin Alumni Research Fund, 1986-1987, *Legal Decisionmaking* (\$2,730).

University of Wisconsin Alumni Research Fund, 1984-1985, *Modeling Social Influence Processes*. (\$7,959).

University of Wisconsin Bio-Medical Research Fund, 1984-1985, *Physiological Desensitization from Exposure to Media Violence*. (\$5,000).

University of Wisconsin Alumni Research Fund, 1983-1984, *Effects of Exposure to Sexually Violent Images*. (\$2,600).

University of Wisconsin Bio-Medical Research Fund, 1983-1984, *An Inoculation Procedure for Exposure to Violent Media Portrayals*. (\$2,600).

University of Wisconsin Alumni Research Fund, 1982-1983,

*Eyewitness Reliability: Closing the Generalization Gap*. (\$5,922).

University of Wisconsin Alumni Research Fund, 1981-1982, *Script-Based Inferencing and Decision Making*. (\$10,229).

University of Wisconsin Alumni Research Fund, 1980-1981, *Models of Jury Decision Making*. (\$5,964).

University of Wisconsin Bio-Medical Research Fund, 1980-1981, *Social Cognition and Patient-Physician Communication*. (\$7,300).

University of Wisconsin Bio-Medical Research Fund, 1979-1980, *Cognitive Models of Symptoms and Diseases*. (\$5,000).

Wisconsin Graduate Research Committee, General Research Support, 1979-1980.

National Science Foundation (Law & Social Sciences) Dissertation Research Award 1979, *Evaluation of Traditional and 'Scientific' Jury Selection Methods*. (\$5,790).

## CONFERENCE PRESENTATIONS (2005-present )

Modjadidi, K., Khogali, M., & Penrod, S. D. (March 2017) Evaluating the Effect of Eyewitness Aids on Laypersons Through a Plea-Bargain Paradigm. American Psychology-Law Society, Seattle.

Rodriguez, D. Hanson, M., Berry, M., Rhead, L. Lawson, V.Z. & Penrod, S.D. (March 2017). Undisclosed and Disclosed Backloading in Sequential, Simultaneous, and Modified Simultaneous Lineups. . American Psychology-Law Society, Seattle.

Lee, J., Khogali, M., Band, S. & Penrod, S. D. (March 2017). The Effect of Own-Race and Interracial Crimes on People's Judgments in Criminal Cases. American Psychology-Law Society, Seattle.

Jones, A., Heuer, L. B. & Penrod, S.D. (March 2017). Does Good (Bad) Behavior Deserve Good (Bad) Treatment? A Test of the Justice Matching Hypothesis. American Psychology-Law Society, Seattle.

Modjadidi, K., Khogali, M., & Penrod, S. D. (July 2016). Jury aids in plea-bargaining: Are attorneys sensitive to eyewitness evidence with aid when making plea-bargaining decisions? European Assn of Psychology and Law, Toulouse.

Jones, A., Heuer, L. & Penrod, S. D. (July 2016). The responsibility of judges to assure due process: Assessing antecedents of procedural and distributive justice in New York City Housing Court. European Assn of Psychology and Law, Toulouse.

Penrod, S. (July 2016). Wagenaar Symposium - Face recognition in forensic settings—chair. European Assn of Psychology and Law, Toulouse.

Bergold, A. & Penrod, S. D. (March 2016). Can Closing Arguments Help Jurors' Evaluate Eyewitness Evidence? American Psychology-Law Society, Atlanta.

Penrod, S. & Smith, A. (August 2015). Memory Quality, Guessing and Bias in Lineups: Their Intersecting Influences on Eyewitness Performance. European Assn of Psychology and Law, Nuremberg.

Jones, A.M., & Penrod, S. (May 2015). Jurors' compliance and Henderson style judicial instructions influence evaluations of confession evidence. Association for Psychological Science, New York, New York.

Jones, A. Y., Bergold, A., Berman, M. & Penrod, S. (March 2015)

- Sensitizing Jurors to Factors Influencing the Accuracy of Eyewitness Identification: Assessing the Effectiveness of the Henderson Instructions. American Psychology-Law Society, San Diego.
- Berman, M. & Penrod, S. (March 2015) The Roles of Evidence Evaluation and Case-Specific Judicial Instructions in Eyewitness Identification Cases. American Psychology-Law Society, San Diego.
- Sivasubramaniam, D., Heuer, L., Penrod, S. & Davies, L. (March 2015) "Acting Fairly": Do Instructions to Engage in Procedural Justice Prompt Distributive Justice? American Psychology-Law Society, San Diego.
- Yarbrough, A., & Penrod, S. (2014, March). Can expert testimony sensitize jurors to the coerciveness of interrogation tactics? American Psychology-Law Society, New Orleans.
- Nicholson, A.S., Yarbrough, A., Berman, M., Hui, C., & Penrod, S. (2014, March). Helping jurors understand eyewitness identifications: Deliberations and judicial instructions. American Psychology-Law Society, New Orleans.
- Berman, M., Yarbrough, A., Nicholson, A.S., Hui, C., & Penrod, S. (2014, March). Do issue-specific judicial instructions sensitize jurors to eyewitness identification accuracy? American Psychology-Law Society, New Orleans.
- Hui, C., Yarbrough, A., Berman, M., Nicholson, A.S., & Penrod, S. (2014, March). Intuitive or informed decision makers? The impact of probative value of evidence on coherence-based reasoning in juror decision making. American Psychology-Law Society, New Orleans.
- Penrod, S. (Dec 2013). National Academy of Sciences Committee on Scientific Approaches to Understanding and Maximizing the Validity and Reliability of Eyewitness Identification in Law Enforcement and the Court.
- Daftary-Kapur, T. & Penrod, S. (September 2013). Assessing the impact of research on the formation of a scientific consensus concerning eyewitness research findings: A longitudinal analysis. EAPL, Coventry.
- Berman, M., Nicholson, A., Yarbrough, A., Hui, C., & Penrod, S. (June 2013). Issue-specific judicial instructions and expert testimony in eyewitness cases. Society for Applied Research in Memory and Cognition, Rotterdam, the Netherlands.
- Hans, V., Ivkovich, S., Fukurai, H., Jaihyun, J., & Penrod, S. (Mar 2013). Global Perspectives on Lay Participation in Legal Decisions. APLS, Portland, OR.
- Daftary-Kapur, T., Tallon, J. A. & Penrod, S. (Mar 2013). Influence of pre-trial publicity on verdicts in a trial simulation: Issues of generalizability and type. APLS, Portland, OR.
- Berman, M. K. & Penrod, S. (Mar 2013). Mistaken eyewitness identification: A meta-analytic review of the efficacy of the judicial instruction safeguard. APLS, Portland, OR.
- Tallon, J. A., Daftary-Kapur, T. & Penrod, S. (Mar 2013). Remorse and PTP in capital trials: Is seeing truly believing? APLS, Portland, OR.
- Penrod, S. & Heuer, L. B. (December 2012). American Courts on Eyewitness Research. International Investigative Psychology. London.
- Daftary-Kapur, T. & Penrod, S. (November 2012). An examination of the effects of post-venire publicity on juror decision-making. ASC, Chicago.
- Yarbrough, A., Nicholson, A., & Penrod, S. (2012, June). Significant eyewitness cases and the shifting focus of the courts. Paper presentation at the Tenth Biennial International Conference, New York, NY.
- Beaudry, J., Crocker, C. O. & Penrod, S. D. (March 2012). Prosecutor and Defense Attorneys' Perceptions of Video-Recorded Eyewitness Identifications. APLS, San Juan.
- Penrod, S. (March 2012). Bringing Eyewitness Science to the Courts. APLS, San Juan.
- Penrod, S. (March 2012). Panel Chair: Lineup Administration: Challenges and Reforms. APLS, San Juan.
- Tallon, J. A., Daftary-Kapur, T., Groscup, J., & Penrod, S. (March 2012). Examining Individual Differences in Jurors' Use of Affectively Laden Evidence. APLS, San Juan.
- Vredeveltdt, A. & Penrod, S. (March 2012). Eye-closure improves free recall of a live event: Context versus distraction. APLS, San Juan.
- Tallon, J., Daftary-Kapur, T., Monier, A., Rhead, L., Loughlin, M., Yip, J., Groscup, J., & Penrod, S. (March 2011). Understanding potential defendant responses to victim impact statements. AP-LS, Miami.
- Rhead, L. M., Daftary-Kapur, T. & Penrod, S. (March 2011). The effects of pretrial publicity on jurors' story construction in a civil case. AP-LS, Miami, FL.
- Crocker, C. & Penrod, S. (March 2011). The influence of eyewitness identification factors and legal factors on attorneys' plea bargaining decisions. AP-LS, Miami, FL.
- Dumas, R., Dysart, J. Py J. & Penrod, S. (March 2011). Eyewitness identification strategies: Contribution of implicit personality theories and emotional expression. AP-LS, Miami, FL.
- Wallace, B. & Penrod, S. (June 2010). Guessing, bias, and reliability in lineups. EAPL, Goteborg, Sweden.
- Tallon, J.; Daftary-Kapur, T., Lindsey Rhead, L.; Jon Carbone, J.; Groscup, J.; & Penrod, S. (March 2010). Underlying Affective Processes in Mock Jurors' Use of Victim Impact Statements. AP-LS, Vancouver.
- Rhead, L.; D'Antuono, D., Daftary-Kapur, T., Tallon, J. A., Penrod, S. (March 2010). The Death Penalty Attitudes Scale as a Moderator of Pre-trial Publicity. AP-LS, Vancouver.
- Penrod, S. D. & Wallace, D. B (Nov 2009). Calculated guessing by eyewitnesses: Are those really correct IDs? Claremont Conference on Empirical Legal Studies, CA.
- Daftary-Kapur, T., Tallon, J. A., Penrod, S. (Sept 2009). Assessing the Impact of New Research on the Formation of a Scientific Consensus Concerning Eyewitness Research Findings. EAPL, Sorrento, Italy.
- Kim, M & Penrod, S. (May 2009). A Comparison of an Adversarial and an Inquisitorial Trial in South Korea: Judges vs. Juries. Law and Society, Denver.
- Kim, M & Penrod, S. (May 2009). A Comparison of Legal Decisions between American and Korean Mock Jurors in an Adversarial and an Inquisitorial Trial. Law and Society, Denver.
- Penrod, S. (March, 2009). Discussant: Plenary: Psychological Perspectives on Wrongful Conviction. AP-LS, San Antonio.
- Kapur, T. D., Wallace, B., & Penrod, S. (March, 2009). The Influence of Pretrial Publicity: Field vs. Laboratory Effects. AP-LS, San Antonio.
- Rhead, L. M., Andiloro, N. R., Carbone, J.m Kapur, T. D., &

- Penrod, S. (March, 2009). What Are They Saying?: The Effects of Pretrial Publicity on Jurors' Story and Jury Deliberations. AP-LS, San Antonio.
- Alberts, W., Penrod, S., Wallace, B. & Duncan, J. (July 2008). Steering Witnesses in an Identification Procedure. EAPL, Maastricht.
- Daftary-Kapur, T., Smith, K., Rhead, L., & S. Penrod, S. (July 2008). The influence of pre-trial publicity on juror decision making in a product liability case. EAPL, Maastricht.
- Penrod, S. (March 2008). Issues and Advice for Expert Witnesses and Eyewitness Identification Researchers. AP-LS, Jacksonville, FL.
- Smith, K. & Penrod, S. (March 2008). Field Survey of Juror Misconduct. AP-LS, Jacksonville, FL.
- Hoy, C., Donovan, M., Daftary, T. & Penrod, S. (March 2008). The Influence of Pre-Trial Publicity and Legal Authoritarianism on Juror Decision Making. AP-LS, Jacksonville, FL.
- Daftary, T, Smith, K. & Penrod, S. (March 2008). Influence of Predecisional Distortion and Bias on Juror Decision Making. AP-LS, Jacksonville, FL.
- Penrod, S. (July 2007). Discussant on Symposium: Issues with Sequential and Simultaneous Lineups. SARMAAC, Lewistown, ME.
- Smith, K., Rhead, L., & Penrod, S. (May 2007). Effect of Extrinsic Evidence on Jurors' Judgments. APS, Washington D.C.
- Pekhman, Y., Smith, K., Rhead, L., Cassandra, H., & Penrod, S. (May 2007). Are jurors' story construction influenced by pretrial publicity? APS, Washington D.C.
- Penrod, S., Wells, G. & Memon, A. (May 2007). Eyewitness Evidence: Improving Its Probative Value. APS, Washington D.C.
- Daftary, T., Smith, K., Rhead, L., & Penrod, S. (March 2007). The influence of pre-trial publicity and participant gender on defendant guilt judgments in a rape case mediated by rape empathy. Eastern Psychological Association, Philadelphia, PA.
- Penrod, S. & Sporer, S. (March 2007). What Do Recent Meta-analyses Tell Us about Eyewitness Accuracy and Deception. Off the Witness Stand, New York, New York.
- Wallace, D. B., Garcia, L. & Penrod, S. (March 2007). The Effect of a Biased Lineup Re-examination and Lineup Size Using Alternate Instructions. Off the Witness Stand, New York, New York.
- Penrod, S. (March 2007). Symposium Chair: Symposium: One Hundred Years of Eyewitness Testimony Research. Off the Witness Stand, New York, New York.
- Smith, K., Daftary, T., Penrod, S. (March 2007). The influence of pretrial publicity and story construction on jurors' perception of defendants guilt pre- and post-trial mediated by attitudes. Paper presentation, Off the Witness Stand, New York, New York.
- Penrod, S. (July 2006). Modeling eyewitness guessing. IAAP, Athens.
- Penrod, S. (July 2006). Eyewitness reliability: The state of the science and its status in the law. IAAP, Athens.
- Kim, M, Park, K. & Penrod, S. (July, 2006) Lay Participation in South Korea: The Content Analysis of Jury Deliberations. Law and Society, Baltimore, MD.
- Penrod, S. (June 2006). Eyewitness and Calculated Guessing. European Association of Psychology and Law. Liverpool, UK.
- DiGiovanni, L., Garcia, L. & Penrod, S. (May 2006). The Remember-Know-Guess Paradigm: Understanding the Effects of Race on Eyewitness. APS, NY, NY.
- Penrod, S. (March 2006). Eyewitness Choosing and Guessing. AP-LS, St. Petersburg, FL.
- Shlosberg, A., Garcia, L. & Penrod, S. (March 2006). Misinformation Effect Revisited Using RKG Judgments. AP-LS, St. Petersburg, FL.
- Bostaph, R., Garcia, L. & Penrod, S. (March 2006). The Effects of Exposure Time, Type of Exposure, and Change in Appearance on the Remember, Know, Guess Paradigm. AP-LS, St. Petersburg, FL.
- Garcia, L., Robertson, R., & Penrod, S. (March 2006). The Effects Of Lineup Size and Serial position under Alternative Lineup Instructions.
- Penrod, S. (March 2006). Chair: Paper Session: Eyewitnesses. AP-LS, St. Petersburg, FL. AP-LS, St. Petersburg, FL.
- Kim, M. Penrod, S., Park, K.-B. (March 2006). Chair Deliberation Content Analysis of Juries and Lay Participants in the South Korean Legal Context. AP-LS, St. Petersburg, FL.
- Smith, K., Garcia, L. & Penrod, S. (March 2006). Rate of Lineup Identification Guessing and RKG Sensitivity to Bias., AP-LS, St. Petersburg, FL.
- Chrzanowski, L., McAuliff, B. D., Steblay, N. & Penrod, S. (March 2006). Medial effects of pretrial publicity on jurors' judgments of defendant. AP-LS, St. Petersburg, FL.
- Chrzanowski, L., Solomonson, J., McAuliff, B. D., & Penrod, S. (March 2006). Pretrial Judgments of Defendant Guilt: Integrating Content Analysis with Case Survey Methodologies. AP-LS, St. Petersburg, FL.
- Hyman, A., Garcia, L., & Penrod, S. (March 2006). Eyewitness Misidentification and Unconscious Transference: Fact or Fiction? AP-LS, St. Petersburg, FL.
- Penrod, S., Garcia, L. & Robertson, R. (July 2005). Assessing the Impact of Eyewitness Guessing and Lineup Bias on Eyewitness Performance. 29th International Congress on Law and Mental Health, Paris
- Penrod, S., Garcia, L. & Robertson, R. (June 2005). Assessing the Impact of Verbal Instructions and Simultaneous versus Sequential Lineups on Cross-Ethnic Eyewitness Identifications. XVth European Conference on Psychology and Law. Vilnius.
- Penrod, S., Bornstein, B., Deffenbacher, K., McGorty, K. & Adya, M. (June 2005). Meta-Analyses of the Effects of Estimator and System Variables in 469 Eyewitness and Facial Recognition Studies. XVth European Conference on Psychology and Law. Vilnius.
- McGorty, E. K., Bornstein, B. & Penrod, S. (Mar 2005). The Effect of Cognitive Processing on Facial Identification Accuracy: A Meta-analysis. American Psychology-Law Society, La Jolla, CA.
- Penrod, S. D., Bornstein, B., McGorty, E. K., & Adya M. (Mar 2005). Determinants of Identification Accuracy in 469 Eyewitness and Facial Recognition Studies. American Psychology-Law Society, La Jolla, CA.
- Chrzanowski, L., Groscup, J., Penrod, S., Giresi, S. Schwartz, S., & Solomonson, J. (Mar 2005). Ultimate Issue Testimony and Its Relationship to Juror Inferences and Information Processing in Forensic Cases. American Psychology-Law Society, La Jolla, CA.

## MAJOR DEPARTMENTAL AND UNIVERSITY COMMITTEES

John Jay-CUNY:

Organizing CUNY Internal Grants for Psychology 2010-2013  
CUNY Doctoral Faculty Policy Committee 2007-  
CUNY Faculty Senate Legal Affairs Committee 2007-2010  
Director of Forensic Psychology PhD program 2007-2008  
CUNY Faculty Advisory Committee for Research Foundation—  
2003- (Chair 2003-2005)  
RFCUNY Board of Directors 2002-2006 2015-  
Department Personnel and Budget 2005-2006  
Faculty/Staff Resource Comm for New John Jay Building 2003  
MacNamara Award Committee 2002-2003  
Presidential Research Award Committee 2002-2003  
Justice Scholarship Committee 2002-2004  
Law- Psychology Admissions Committee 2004-  
Criminal Justice Graduate Admissions/Financial Aid/Graduate  
Council 2002-2015.

## TEACHING

2001-17 (CUNY): Rotation of Jury Decisionmaking; Eyewitness  
Reliability; Experimental Psychology and Law; Graduate  
Research Methods; Media, Psychology and Law

1995-01 (Nebraska): Law and Behavioral Sciences, Jury  
Decisionmaking, Amicus Brief Writing; Juries, Alternative Dispute  
Resolution, Law and Psychology, Grantwriting, Meta-analysis

1988-95 (Minnesota): Social Science and Law, Alternative Dispute  
Resolution, Negotiation Skills, Conflict Management, Social  
Psychology Graduate Pro-Seminar, Social Psychology Graduate  
Pro-Seminar, Methods of Meta- Analysis, Moot Court Supervision,  
Graduate Research Methods (Political Science Department),  
Social Science and Law, Psychology and Law (Psychology  
Department).

1979-1988 (Wisconsin): Research Methods in Social Psychology,  
Psychology and Law, Graduate Research Methods in Social  
Psychology, Social Psychology, Social Science and Law, Expert  
Witness Seminar, Evidence (University of Wisconsin Law School),  
Social Cognition, Introductory Psychology.

## Ph.D. STUDENTS

Marlee Berman (2015)  
Angela Yarbrough Jones (2015)  
Min Kim (2009)  
Tarika Daftary-Kapur (2009—with Maureen O'Connor) APA  
Division 41 Dissertation Prize and Cattell Dissertation award  
Jennifer Tallon (2009—with Jennifer Groscup)  
Kelloir Smith (2008)  
Lisa Chrzanowski (2005—with Jennifer Groscup) APA Division 41  
Dissertation Prize (2<sup>nd</sup>)  
Jennifer Groscup (2002)—APA Division 41 Dissertation Prize  
Aletha Claussen-Schulz (2002)  
Sena Garven (2002)  
Kerri Dunn (2002)  
Kevin O'Neil (2002)  
Robert Ray (2001)  
Marc Patry (2001)  
Peter Le (1999)  
Dennis Stolle (1998)—APA Division 41 Dissertation Prize (3<sup>rd</sup>)  
Amy Otto (1994)  
Brian Cutler (1987)—APA Division 41 Dissertation Prize  
Larry Heuer (1986)—APA Division 9 (SPSSI) Dissertation Prize  
Carol Krafka (1985)—APA Division 41 Dissertation Prize (2<sup>nd</sup>)  
Daniel Linz (1984)—APA Division 41 Dissertation Prize and APA  
Division 9 (SPSSI) Dissertation Prize;  
Sarah Tanford (1983)—APA Division 41 Dissertation Prize

Marlowe Embree (1982)

## POST-DOCTORAL ADVISEES

Yuhwa Han (2013-2014)  
Rafaele Dumas (2007-2009)  
Diane Sivasubramaniam (2005-2007)  
Maria Hartwig (2005-2006)  
Lisette Garcia (2003-2005)  
Brad McAuliff, PhD (2000-02)—Cal St Northridge  
Brian Bornstein, PhD (2000-02) —U of Nebraska  
Greg Page, PhD (2000-02) (with Mario Scalora)—U of Pittsburgh-  
Bradford  
Debra Lynn Kaplan, PhD (1999-01)—Arizona State  
Theresa Doyon, PhD (1998- 2000) – Hewlett-Packard  
Nancy Walker, PhD (1998-99) –Michigan State  
Jennifer Devenport, PhD (1996-98) –Western Washington  
Tom Hafemeister, JD , PhD ( 1996-98) –U of Virginia  
Kwang Park, PhD (1995-96) (with Alan Tomkins)—Chungbuk  
National U--Korea  
Maithilee Pathak, PhD (1995-97) (with Alan Tomkins)--Consulting  
Christina Studebaker, PhD (1995-98) – Chicago School of  
Professional Psychology

## MEMBERSHIPS

Association for Psychological Science--Fellow  
American Psychology-Law Society (Newsletter Ed. 1984-87--  
Secy/Treas. 1987-1990, President 2000-2001)  
American Sociological Association  
European Association of Psychology and Law  
International Association for Applied Psychology  
Law & Society Association  
Psychonomic Society  
International Association of Conflict Management  
Society of Experimental Social Psychology  
Society for Applied Research in Memory and Cognition  
Society for the Psychological Study of Social Issues (Fellow)  
Kidder Award Committee (2000-2002)

## EDITORIAL BOARD/EXTERNAL POSITIONS

APA Committee on Legal Issues 1999-2000  
Applied Cognitive Psychology 1997-2004  
Basic and Applied Social Psychology 1998-2002  
Forensic Reports 1988-1992  
Journal of Criminal Law and Criminology 1991-1994  
Journal of Forensic Psychology Practice 2001-  
Journal of Personality and Social Psychology 1990-1996  
Law and Human Behavior (APA Div. 41 Publication) 1985-2006  
Law, Probability and Risk 2000-  
Legal and Criminological Psychology 1994-  
Psychology, Crime, and Law [receiving editor] 1992-2006  
Psychology, Public Policy and Law [editor-2007-2008]  
Social Behaviour: Int'l J. of Applied Social Psych 1987- 1991  
Social Justice Research 2004-  
SSRN Law and Psychology Journal 2006-

## REVIEWING

American Bar Foundation Research Journal  
American Journal of Psychology  
American Judicature Society  
American Psychologist  
APA Annual Meetings  
APA Newman Awards  
AP-LS Meetings

Applied Cognitive Psychology  
Basic and Applied Social Psychology  
European Journal of Social Psychology  
Forensic Reports  
Health Psychology  
Journal of Applied Psychology  
Journal of Applied Social Psychology  
Journal of Criminal Law and Criminology  
Journal of Experimental Psychology: Applied  
Journal of Personality  
Journal of Personality & Social Psychology  
Journal of Research in Personality  
Journal of Social Issues  
Law and Human Behavior  
Law and Policy

Law & Society Review  
Legal and Criminological Psychology  
MPA Meetings  
National Institute of Justice--Study Section and external reviewer  
National Institute of Mental Health—internal/external reviewer  
National Science Foundation  
Personality & Social Psychology Bulletin  
Psychological Bulletin  
Psychology, Crime, and Law  
Psychology, Public Policy and Law  
Social Behaviour  
Social Psychology Quarterly  
SSRN Law and Psychology Journal  
NSF Panel External Reviews: Measurement Methods, Political  
Science, Law and Social Sciences, Social Developmental